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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/596,195	06/17/2000	JASON R. WILCOX	1018.084US1	1771

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EXAMINER

DURAN, ARTHUR D.

ART UNIT PAPER NUMBER

3622

DATE MAILED: 01/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/596,195

Applicant(s)

WILCOX ET AL.

Examiner

Arthur Duran

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-- Th MAILING DATE of this communication appears on th cover sheet with the correspondenc address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. Claims 1-17 have been examined.

Response to Amendment

2. The Amendment filed on 12/17/02 is insufficient to overcome the Brown and Hoyle reference.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 8 and 13 are rejected under 35 U.S.C. 102(e) as being unpatentable over Brown (6,026,368).

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Claims 8 and 13: Brown discloses a method for providing content and advertising information to a targeted set of viewers. Brown further discloses that content locations (websites) and site hosts can be targeted for the content (col 3, lines 45-62 and col 23, lines 18-26). Brown further discloses constructing sub item slot groups, each sub group having item slots, each item slot initially unfilled and able to be filled by an item (col 9, lines 15-52), constructing item slot groups, each group having at least one sub item slot group and having item slots equal to a total number of item slots of the at least one sub item slot group the group encompasses, each item slot initially unfilled and able to be filled by an item (col 9, lines 15-52), constructing meta item slot groups, each meta group having at least one item slot group and having item slots equal to a total number of item slots of the at least one item slot group the meta group encompasses, each item slot initially unfilled and able to be filled by an item (col 9, lines 15-52), allocating items of a first type over the item slots of the meta item slot groups that are unfilled by matching characteristics of the item to characteristics of the meta item slot group, such that allocating an item to an item slot fills the item slot with the item (col 10, lines 24-40), allocating items of a second type over the item slots of the meta item slot groups that are unfilled, the item slots of the item slot groups that are unfilled, and the item slots of the sub item slot groups that are unfilled, by matching characteristics of the items to characteristics of the sub item slot groups, such that allocating an item to an item slot fills the item slot with the item (col 10, lines 24-40), and allocating items of the first type over the item slots of the item slot groups that are unfilled and the item slots of the sub item slot groups that are unfilled, such that allocating an item to an item slot fills the item slot with the item (col 10, lines 24-40).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7, 9-12, and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (6,026,368) in view of Hoyle (6,141,010).

Claim 1: Brown discloses a method for providing content and advertising information to a targeted set of viewers. Brown further discloses that content locations (websites) and site hosts can be targeted for the content (col 3, lines 45-62 and col 23, lines 18-26). Brown further discloses constructing item slot groups, each group having item slots, each item slot initially unfilled and able to be filled by an item (col 9, lines 15-52), allocating items of a first type to the item slots of the item slot groups that are unfilled by matching characteristics of the first type of items to characteristics of the item slot group, such that allocating an item to an item slot fills the item slot with the item (col 10, lines 24-40), allocating items of a second type over the item slots of the item slot groups that are unfilled, by matching characteristics of the second type of items to characteristics of the item slot groups, such that allocating an item to an item slot fills the item slot with the item (col 10, lines 24-40). Brown further discloses displaying the items that are available for a group (col 10, lines 35-40). Brown does not explicitly state that the information is displayed in bar graph format. However, Hoyle discloses a method for targeted advertising. Hoyle further discloses utilizing complex graphical displays to display the status of banner

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advertisements (col 3, lines 44-48; Fig. 5a). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Hoyle's complex graphical displays of item availability to Brown's advertisement management method. One would have been motivated to do this because Brown discloses displaying the items available and Hoyle's complex graphical displays for item availability display is an obvious way of doing this.

Brown further discloses a predefined number of item slots (col 17, lines 24-29; col 14, lines 13-15).

Claims 2, 10, and 15: Brown and Hoyle disclose a method as in claims 1, 8, and 13. Brown further discloses that each item comprises an ad and each item slot group comprises a web site, such that each item slot corresponds to an advertising space (col 4, lines 7-10; col 23, lines 18-24; col 17, lines 21-24).

Claims 3, 11, and 16: Brown and Hoyle disclose a method as in claims 2, 10, and 15. Brown further discloses that the first type of items comprises member ads, and the second type comprises sponsor ads (col 5, lines 63-67).

Claims 4, 12, and 17: Brown and Hoyle disclose a method as in claims 1, 8, and 13. Brown further discloses a fill quota and filling the slots with a number of items equal to the quota (col 25, line 63-col 26, line 19 and col 9, lines 15-52).

Claim 5: Brown and Hoyle disclose a method as in claim 4. Brown further discloses filling the items of the first type with the number of item slots of the item slot groups that are unfilled with the item equal to the quota proportionally as to the item slots unfilled of the item

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slot groups having characteristics matching the characteristics of the item (col 25, line 63-col 26, line 19; col 9, lines 15-52; and col 10, lines 24-40).

Claim 6: Brown and Hoyle disclose a method as in claim 1. Brown further discloses that the second type has a quota, wherein allocating each of the items of the second type comprises filling the items of the slot groups that are unfilled with the items equal to the quota (col 25, line 63-col 26, line 19; col 9, lines 15-52; and col 10, lines 24-40).

Claim 7: Brown and Hoyle disclose a method as in claim 6. Brown further discloses filling the items of the second type with the number of item slots of the item slot groups that are unfilled with the item equal to the quota proportionally as to the item slots unfilled of the item slot groups having characteristics matching the characteristics of the item (col 25, line 63-col 26, line 19; col 9, lines 15-52; and col 10, lines 24-40).

Claims 9 and 14: Brown and Hoyle disclose a method as in claims 8 and 13. Brown further discloses displaying the items that are available for a group (col 10, lines 35-40). Brown does not explicitly state that the information is displayed in bar graph format. However, Hoyle discloses a method for targeted advertising. Hoyle further discloses utilizing complex graphical displays to display the status of banner advertisements (col 3, lines 44-48; Fig. 5a). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Hoyle's complex graphical displays of item availability to Brown's advertisement management method. One would have been motivated to do this because Brown discloses displaying the items available and Hoyle's complex graphical displays for item availability display is an obvious way of doing this.

Response to Arguments

5. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the ground(s) of rejection for claim 1 above.

Applicant's arguments filed 12/17/02 in regards to claims 1-17 have been fully considered but they are not persuasive. Reasons why these arguments were not considered persuasive are outlined below.

The Applicant's Amendment states on page 8, line 11-, 'To achieve an invention equivalent to that claimed by the applicant's, Brown's method would need to be modified such that a targeting analyst would generate a pre-defined number of empty item slots (files or sub-folders) arranged in a plurality of item slot groups (folders). Brown's method would also need to be modified such that objects/items are only added to unfilled item slots/files'.

However, Brown discloses that play lists can be constructed according to predetermined rules and definitions (col 2, lines 1-5; col 2, lines 15-28). Brown further discloses that sets of priority queues are generated (col 5, lines 56-60). The Merriam-Webster Online Dictionary (www.m-w.com) states that a set is, " **2** : a number of things of the same kind that belong or are used together." Hence, it is inherent to a set that a set has a limited number of items.

Brown further discloses that a specific number of segments is predetermined and then returned in response to the reception of a playlist (col 17, lines 24-29).

Brown further discloses that the analyst creates and controls all aspects of what and how target objects will be targeted (col 13, lines 19-26) and that a variety of content segments are available to select to fill these target objects (col 13, lines 19-26).

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Brown further discloses that there are folders for the different types of target entities and also folders of the available items to fill those target entities (col 13, line 65-col 14, line 12).

Brown further discloses that content items can be selected to fill empty content slots (col 14, lines 9-12).

Brown further discloses that target object slots are filled and that content segment fields are filled, and that target object slots are matched with content segments (col 14, lines 13-15). Brown further states, 'When the target object and content segment fields are filled,' (col 14, lines 13-15, therefore, it is inherent to Brown's disclosure that there is a limit on the target object slots and content segment fields that need to be filled. It is, therefore, inherent to Brown's disclosure that items are added to unfilled slots, that there are a predetermined number of slots, that these slots are originally empty, and that these slots need to be filled.

Brown further discloses that available records can be added to folders based on the type of information that that folder holds (col 9, lines 34-46; col 10, lines 31-40).

In regards to the combination of Brown and Hoyle, Brown discloses a visual presentation of database tables and columns that are available to the user for building targeting profiles (col 9, line 65-col 10, line 5; col 10, lines 35-40). Hoyle was combined with Brown to demonstrate some of the visual display formats that are possible for the information and operations that Brown discloses.

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Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (703)305-4687. The examiner can normally be reached on Mon- Fri, 7:30-4:00.

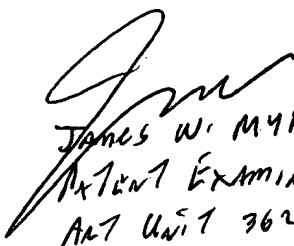
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (703)305-8469. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9326 for regular communications and (703)872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.

AO

January 2, 2003


JAMES W. MYHALL
PATENT EXAMINER
ART UNIT 3622